



General Assembly

**Amendment**

January Session, 2005

LCO No. 7349

**\*HB0521507349HDO\***

Offered by:

REP. LAWLOR, 99<sup>th</sup> Dist.

REP. CANDELARIA, 95<sup>th</sup> Dist.

REP. WALKER, 93<sup>rd</sup> Dist.

REP. MANTILLA, 4<sup>th</sup> Dist.

REP. KIRKLEY-BEY, 5<sup>th</sup> Dist.

REP. MCCRORY, 7<sup>th</sup> Dist.

To: Subst. House Bill No. 5215

File No. 528

Cal. No. 387

**"AN ACT CONCERNING COURT JURISDICTION IN JUVENILE MATTERS."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Section 54-76b of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective January 1, 2006*):

5 (a) For the [purpose] purposes of sections 54-76b to 54-76n,  
6 inclusive; [, "youth"]

7 (1) "Youth" means (A) a minor who has reached the age of sixteen  
8 years but has not reached the age of eighteen years, or (B) a child who  
9 has been transferred to the regular criminal docket of the Superior  
10 Court pursuant to section 46b-127; and ["youthful offender"]

11 (2) "Youthful offender" means a youth who [(1)] (A) is charged with  
12 the commission of a crime which is not a class A felony or a violation

13 of subdivision (2) of subsection (a) of section 53-21 [.] or section 53a-70,  
14 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, except a violation  
15 involving consensual sexual intercourse or sexual contact between the  
16 youth and another person who is thirteen years of age or older but  
17 under sixteen years of age, [(2)] (B) has not previously been convicted  
18 of a felony in the regular criminal docket of the Superior Court or been  
19 previously adjudged a serious juvenile offender or serious juvenile  
20 repeat offender, as defined in section 46b-120, [or a youthful offender,  
21 or been afforded a pretrial program for accelerated rehabilitation  
22 under section 54-56e,] and [(3)] (C) is adjudged a youthful offender  
23 pursuant to the provisions of [said sections] sections 54-76b to 54-76n,  
24 inclusive.

25 (b) The Interstate Compact for Adult Offender Supervision under  
26 section 54-133 shall apply to youthful offenders.

27 Sec. 2. Section 54-76c of the general statutes is repealed and the  
28 following is substituted in lieu thereof (*Effective January 1, 2006*):

29 (a) In any case where an information or complaint has been laid  
30 charging a defendant with the commission of a crime, and where it  
31 appears that the defendant is a youth, [upon motion of the defendant,  
32 his counsel, the state's attorney or the prosecuting attorney, as the case  
33 may be, to the court having jurisdiction that an investigation be made  
34 of such defendant for the purpose of determining whether he is  
35 eligible to be adjudged a youthful offender, the court shall, but only as  
36 to the public, order the court file sealed. The court on its own motion  
37 may, but only as to the public, order the court file sealed in the case of  
38 a youth charged with crime] such defendant shall be presumed to be  
39 eligible to be adjudged a youthful offender and the court having  
40 jurisdiction shall, but only as to the public, order the court file sealed,  
41 unless such defendant (1) is charged with the commission of a crime  
42 which is a class A felony or a violation of subdivision (2) of subsection  
43 (a) of section 53-21 or section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a  
44 or 53a-72b, except a violation involving consensual sexual intercourse  
45 or sexual contact between the youth and another person who is

46 thirteen years of age or older but under sixteen years of age, or (2) has  
47 been previously convicted of a felony in the regular criminal docket of  
48 the Superior Court or been previously adjudged a serious juvenile  
49 offender or serious juvenile repeat offender, as defined in section 46b-  
50 120. Except as provided in subsection (b) of this section, upon motion  
51 of the prosecuting official, the court may order that an investigation be  
52 made of such defendant under section 54-76d, as amended by this act,  
53 for the purpose of determining whether such defendant is ineligible to  
54 be adjudged a youthful offender, provided the court file shall remain  
55 sealed, but only as to the public, during such investigation.

56 (b) (1) Upon motion of the prosecuting official and order of the  
57 court, the case of any defendant who is a youth and is charged with  
58 the commission of a felony, other than a felony set forth in subsection  
59 (a) of this section, shall be transferred from the youthful offender  
60 docket to the regular criminal docket of the Superior Court, provided  
61 the court finds ex parte that there is probable cause to believe the  
62 defendant has committed the act for which he or she is charged. The  
63 defendant shall be arraigned in the regular criminal docket of the  
64 Superior Court at the next court date following such transfer, provided  
65 any proceedings held prior to the finalization of such transfer shall be  
66 private and shall be conducted in such parts of the courthouse or the  
67 building wherein court is located as shall be separate and apart from  
68 the other parts of the court which are then being held for proceedings  
69 pertaining to adults charged with crimes. The file of any case so  
70 transferred shall remain sealed until the end of the tenth working day  
71 following such arraignment, unless the prosecuting official has filed a  
72 motion pursuant to subdivision (2) of this subsection, in which case  
73 such file shall remain sealed until the court makes a decision on the  
74 motion.

75 (2) A prosecuting official may, not later than ten working days after  
76 such arraignment, file a motion to transfer the case of any defendant  
77 who is a youth and is charged with the commission of a felony, other  
78 than a felony set forth in subsection (a) of this section, from the regular  
79 criminal docket of the Superior Court to the youthful offender docket

80 for proceedings in accordance with the provisions of sections 54-76b to  
81 54-76n, inclusive. The court sitting for the regular criminal docket of  
82 the Superior Court shall, after hearing and not later than ten working  
83 days after the filing of such motion, decide such motion.

84 Sec. 3. Section 54-76d of the general statutes is repealed and the  
85 following is substituted in lieu thereof (*Effective January 1, 2006*):

86 (a) If the court grants [such] a motion under subsection (a) of section  
87 54-76c, as amended by this act, or if the court on its own motion  
88 determines that the defendant should be investigated [hereunder]  
89 under this section, and the defendant consents to physical and mental  
90 examinations, if deemed necessary, and to investigation and  
91 questioning, and to a trial without a jury, should a trial be had, the  
92 information or complaint shall be held in abeyance and no further  
93 action shall be taken in connection with such information or complaint  
94 until such examinations, investigation and questioning are had of the  
95 defendant. Investigations under [sections 54-76b to 54-76n, inclusive,]  
96 this section shall be made by an adult probation officer. When the  
97 information or complaint charges commission of a felony, the adult  
98 probation officer shall include in the investigation a summary of any  
99 uneraser juvenile record of adjudications of the defendant.

100 (b) Upon the termination of such examinations, investigation and  
101 questioning, the court, in its discretion based on the severity of the  
102 crime, which shall also take into consideration whether or not the  
103 defendant took advantage of the victim because of the victim's  
104 advanced age or physical incapacity, and the results of the  
105 examinations, investigation and questioning, shall determine whether  
106 such defendant is eligible or ineligible to be adjudged a youthful  
107 offender. If the court determines that the defendant is eligible to be so  
108 adjudged, no further action shall be taken on the information or  
109 complaint and the defendant shall be required to enter a plea of  
110 "guilty" or "not guilty" to the charge of being a youthful offender. If the  
111 court determines that the defendant is ineligible to be so adjudged, it  
112 shall order the information or complaint to be unsealed and the

113 defendant shall be prosecuted as though the [proceeding hereunder]  
114 proceedings under sections 54-76b to 54-76n, inclusive, had not been  
115 had.

116 (c) If no motion is made by the prosecuting official under subsection  
117 (a) of section 54-76c, as amended by this act, or by the court under  
118 subsection (a) of this section, and the defendant consents to a trial  
119 without a jury, should a trial be had, no further action shall be taken  
120 on the information or complaint and the defendant shall be required to  
121 enter a plea of "guilty" or "not guilty" to the charge of being a youthful  
122 offender.

123 (d) At any time prior to trial as provided in section 54-76e or at any  
124 time prior to entering a plea of "guilty" to the charge of being a  
125 youthful offender, the defendant, on motion and with the concurrence  
126 of the defendant's parent or guardian and the defendant's attorney, if  
127 any, may waive further proceedings under the provisions of sections  
128 54-76b to 54-76n, inclusive, and request a trial by jury in the regular  
129 criminal docket of the Superior Court. If the court, after making a  
130 thorough inquiry, is satisfied that such waiver is knowingly and  
131 voluntarily made, the court may grant such motion and order the  
132 information or complaint to be unsealed and the defendant shall be  
133 prosecuted as though the proceedings under sections 54-76b to 54-76n,  
134 inclusive, had not been had.

135 Sec. 4. Section 54-76h of the general statutes is repealed and the  
136 following is substituted in lieu thereof (*Effective January 1, 2006*):

137 All of the proceedings [except proceedings on the motion under  
138 section 54-76c] had under the provisions of sections 54-76b to 54-76n,  
139 inclusive, shall be private and shall be conducted in such parts of the  
140 courthouse or the building wherein court is located as shall be separate  
141 and apart from the other parts of the court which are then being held  
142 for proceedings pertaining to adults charged with crimes. If [such] the  
143 defendant is committed while [such] any examination and  
144 investigation under section 54-76d, as amended by this act, is pending,

145 before trial, during trial or after judgment and before sentence, those  
146 persons in charge of the place of detention shall segregate such  
147 defendant, to the extent of their facilities, from defendants over the age  
148 of eighteen years charged with crime.

149 Sec. 5. Section 54-76i of the general statutes is repealed and the  
150 following is substituted in lieu thereof (*Effective January 1, 2006*):

151 Pending and during the investigation, trial, adjudication or acquittal  
152 of the defendant, or any other proceedings under sections 54-76b to 54-  
153 76n, inclusive, the court [to which the recommendation for the  
154 investigation has been made] having jurisdiction shall have the same  
155 powers over the person of the defendant as it would have in the case of  
156 an adult charged with crime.

157 Sec. 6. Section 54-76j of the general statutes is repealed and the  
158 following is substituted in lieu thereof (*Effective January 1, 2006*):

159 (a) The court, upon the adjudication of any person as a youthful  
160 offender, may: (1) [commit] Commit the defendant; [ ] (2) impose a fine  
161 not exceeding one thousand dollars; [ ] (3) impose a sentence of  
162 conditional discharge or a sentence of unconditional discharge; [ ] (4)  
163 impose a sentence of community service; [ ] (5) impose a sentence to a  
164 term of imprisonment not greater than that authorized for the crime  
165 committed by the defendant, but in no event shall any such term  
166 exceed four years; (6) impose sentence and suspend the execution of  
167 the sentence, entirely or after a period set by the court; [ ] (7) order  
168 treatment pursuant to section 17a-699; [ ] or (8) if a criminal docket for  
169 drug-dependent persons has been established pursuant to section  
170 51-181b in the judicial district in which the defendant was adjudicated  
171 a youthful offender, transfer the supervision of the defendant to the  
172 court handling such docket.

173 (b) If execution of the sentence is suspended under subdivision (6)  
174 of subsection (a) of this section, the defendant may be placed on  
175 probation or conditional discharge for a period not to exceed three  
176 years, provided, [the court in its discretion may from time to time,

177 while such probation is in force, extend such probation for a period not  
178 to exceed five years, including the original probationary period] at any  
179 time during the period of probation, after hearing and for good cause  
180 shown, the court may extend the period as deemed appropriate by the  
181 court. If the court places the person adjudicated to be a youthful  
182 offender on probation, the court may order that, as a condition of such  
183 probation, the person be referred for services to a youth service bureau  
184 established pursuant to section [17a-39] 10-19m, provided the court  
185 finds, through an assessment by a youth service bureau or its designee,  
186 that the person is in need of and likely to benefit from such services. If  
187 the court places a person adjudicated as a youthful offender on  
188 probation, the court may order that, as a condition of such probation,  
189 the person participate in the zero-tolerance drug supervision program  
190 established pursuant to section 53a-39d. If the court places a youthful  
191 offender on probation, school and class attendance on a regular basis  
192 and satisfactory compliance with school policies on student conduct  
193 and discipline may be a condition of such probation and, in such a  
194 case, failure to so attend or comply shall be a violation of probation. If  
195 the court has reason to believe that the person adjudicated to be a  
196 youthful offender is or has been an unlawful user of narcotic drugs, as  
197 defined in section 21a-240, and the court places such youthful offender  
198 on probation, the conditions of probation, among other things, shall  
199 include a requirement that such person shall submit to periodic tests to  
200 determine, by the use of "synthetic opiate antinarcotic in action",  
201 nalline test or other detection tests, at a hospital or other facility,  
202 equipped to make such tests, whether such person is using narcotic  
203 drugs. A failure to report for such tests or a determination that such  
204 person is unlawfully using narcotic drugs shall constitute a violation of  
205 probation. If the court places a person adjudicated as a youthful  
206 offender for a violation of section 53-247 on probation, the court may  
207 order that, as a condition of such probation, the person undergo  
208 psychiatric or psychological counseling or participate in an animal  
209 cruelty prevention and education program, provided such a program  
210 exists and is available to the person.

211 (c) Commitment [hereunder] under this section shall be for a period  
212 not to exceed the term of imprisonment authorized for the crime  
213 committed by the defendant, but in no event shall any such period  
214 exceed four years, and shall be to any religious, charitable or other  
215 correctional institution authorized by law to receive persons over the  
216 age of sixteen years. Whenever a youthful offender is committed by  
217 the court to any duly authorized religious, charitable or other  
218 institution, other than an institution supported or controlled by the  
219 state or a subdivision thereof, such commitment shall be made, when  
220 practicable, to a religious, charitable or other institution under the  
221 control of persons of the same religious faith or persuasion as that of  
222 the youthful offender. If a youthful offender is committed by the court  
223 to any institution other than an institution supported or controlled by  
224 the state or a subdivision thereof, which is under the control of persons  
225 of a religion or persuasion different from that of the youthful offender,  
226 the court shall state or recite the facts which impel it to make such  
227 disposition, and such statement shall be made a part of the record of  
228 the proceedings.

229 Sec. 7. Section 54-76l of the general statutes is repealed and the  
230 following is substituted in lieu thereof (*Effective January 1, 2006*):

231 (a) For the purposes of this section, "defendant" means any youth  
232 who (1) is presumed to be eligible to be adjudged a youthful offender  
233 under subsection (a) of section 54-76c, as amended by this act, (2) has  
234 been determined to be eligible to be adjudged a youthful offender  
235 under subsection (b) of section 54-76d, as amended by this act, or is  
236 otherwise eligible under subsection (c) of said section, or (3) has been  
237 adjudged a youthful offender under section 54-76g.

238 [(a)] (b) The records of any [youth adjudged a youthful offender]  
239 defendant, including fingerprints, photographs and physical  
240 descriptions, shall be confidential and shall not be open to public  
241 inspection or be disclosed except as provided in this section, but such  
242 fingerprints, photographs and physical descriptions submitted to the  
243 State Police Bureau of Identification of the Division of State Police



244 within the Department of Public Safety at the time of the arrest of a  
245 person subsequently adjudged, or subsequently presumed or  
246 determined to be eligible to be adjudged, a youthful offender shall be  
247 retained as confidential matter in the files of the bureau and be opened  
248 to inspection only as provided in this section. Other data ordinarily  
249 received by the bureau, with regard to persons arrested for a crime,  
250 shall be forwarded to the bureau to be filed, in addition to such  
251 fingerprints, photographs and physical descriptions, and be retained in  
252 the division as confidential information, open to inspection only as  
253 provided in this section.

254 [(b)] (c) The records of any [youth adjudged a youthful offender on  
255 or after October 1, 1995] defendant, or any part thereof, may be  
256 disclosed to and between individuals and agencies, and employees of  
257 such agencies, providing services directly to the [youth] defendant,  
258 including law enforcement officials, state and federal prosecutorial  
259 officials, school officials in accordance with section 10-233h, court  
260 officials, the Division of Criminal Justice, the Court Support Services  
261 Division, the Board of Pardons and Paroles and an advocate appointed  
262 pursuant to section 54-221 for a victim of a crime committed by the  
263 [youth] defendant. Such records shall also be available to the attorney  
264 representing the [youth] defendant, in any proceedings in which such  
265 records are relevant, to the parents or guardian of such [youth]  
266 defendant, until such time as the [youth] defendant reaches the age of  
267 majority or is emancipated, and to the [youth] defendant upon his or  
268 her emancipation or attainment of the age of majority, provided proof  
269 of the identity of such [youth] defendant is submitted in accordance  
270 with guidelines prescribed by the Chief Court Administrator. Such  
271 records disclosed pursuant to this subsection shall not be further  
272 disclosed.

273 [(c)] (d) The records of any [youth adjudged a youthful offender]  
274 defendant, or any part thereof, may be disclosed upon order of the  
275 court to any person who has a legitimate interest in the information  
276 and is identified in such order. Records or information disclosed  
277 pursuant to this subsection shall not be further disclosed.

278        [(d)] (e) The records of any [youth adjudged a youthful offender]  
279        defendant, or any part thereof, shall be available to the victim of the  
280        crime committed by such [youth] defendant to the same extent as the  
281        record of the case of a defendant in a criminal proceeding in the  
282        regular criminal docket of the Superior Court is available to a victim of  
283        the crime committed by [such] the defendant in such criminal  
284        proceeding. The court shall designate an official from whom such  
285        victim may request such information. Information disclosed pursuant  
286        to this subsection shall not be further disclosed.

287        [(e)] (f) Any reports and files held by the Court Support Services  
288        Division regarding any [youth adjudged a youthful offender]  
289        defendant who served a period of probation may be accessed and  
290        disclosed by employees of the division for the purpose of performing  
291        the duties contained in section 54-63b.

292        [(f)] (g) Information concerning any [youth adjudged a youthful  
293        offender] defendant who has escaped from an institution to which  
294        such [youth] defendant has been committed or for whom an arrest  
295        warrant has been issued may be disclosed by law enforcement  
296        officials.

297        [(g)] (h) The information contained in and concerning the issuance  
298        of any protective order issued in a case in which a person is [found]  
299        presumed or determined to be eligible to be adjudged a youthful  
300        offender shall be entered in the registry of protective orders pursuant  
301        to section 51-5c and may be further disclosed as specified in said  
302        section.

303        (i) The records or other information concerning any youth who is  
304        arrested and charged with the commission of a crime which is not a  
305        class A felony or a violation of subdivision (2) of subsection (a) of  
306        section 53-21 or section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-  
307        72b, except a violation involving consensual sexual intercourse or  
308        sexual contact between the youth and another person who is thirteen  
309        years of age or older but under sixteen years of age, shall be

- 310 confidential and shall not be open to public inspection or be disclosed  
311 by law enforcement officials, except as provided in this section."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2006</i>	54-76b
Sec. 2	<i>January 1, 2006</i>	54-76c
Sec. 3	<i>January 1, 2006</i>	54-76d
Sec. 4	<i>January 1, 2006</i>	54-76h
Sec. 5	<i>January 1, 2006</i>	54-76i
Sec. 6	<i>January 1, 2006</i>	54-76j
Sec. 7	<i>January 1, 2006</i>	54-76l